

Exxon Mobil Corporation

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Baytown, Texas 77522-4004



April 8, 2020

Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, DC 20044-7611
Reference Case No. 90-5-2-1-07030
CERTIFIED MAIL NO. 7019 1120 0001 9502 4116
RETURN RECEIPT REQUESTED

Director
Air Enforcement Division
Office of Regulatory Enforcement
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code 2242-A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
CERTIFIED MAIL NO. 7019 1120 0001 9502 4123
RETURN RECEIPT REQUESTED

Chief
Chemical Accident Enforcement Section (ECDAD)
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
CERTIFIED MAIL NO. 7019 1120 0001 9502 4130
RETURN RECEIPT REQUESTED

Re: Notification of Potential Force Majeure Event and Request for Potential Enforcement Discretion as a Result of COVID-19 for the ExxonMobil Baytown Refinery

Dear Sirs and Madams:

Pursuant to Paragraph 218 of the Consent Decree ("CD") between the United States and Exxon Mobil Corporation ("ExxonMobil") and ExxonMobil Oil Corporation, Case No. 05-C-5809, entered on December 13, 2005, this letter provides notice that a force majeure event as described in Paragraph 218 of the CD (herein, "Force Majeure") **may potentially occur** as a result of the global

pandemic outbreak of Coronavirus Disease 2019 ("COVID-19"). ***This notification is being provided out of an abundance of caution to preserve all rights under the CD as the COVID-19 pandemic further develops.*** ExxonMobil continues to take diligent and prudent actions to protect the health and safety of its workers, the public and the environment, and to meet market needs as the COVID-19 pandemic develops. However, this potential Force Majeure event may impact the ability of the ExxonMobil Baytown Refinery ("Baytown Refinery") to comply with various provisions of the CD, as well as federal air, water and/or waste regulations.

The CD requires ExxonMobil to include certain CD requirements in the Title V operating permit. Thus, some of the potential compliance issues identified in this Force Majeure notification may also be potential noncompliance with the Title V operating permit. Similarly, many of the CD requirements relate to federal regulations. This letter advises of potential federal air, water and waste regulatory compliance issues under the CD or other permit(s), and/or federal rules and regulations, generally for the Baytown Refinery. To the extent that exemptions do not apply to any such noncompliance or such issues are deemed to be outside the scope of this notification of potential Force Majeure under the CD or other permit(s), and/or federal rules and regulations, ExxonMobil respectfully requests that EPA exercise enforcement discretion to not seek penalties or other enforcement action for potential noncompliance as a result of a reduced workforce from COVID-19 from the period of **April 8, 2020 to June 30, 2020. This initial period may become extended depending on the nature and severity of the COVID-19 impacts over the next few months, and follow-up notifications will be submitted to provide ongoing updates of any actual compliance impacts.** Please note that should potential compliance issues with state regulatory requirements and/or federal regulatory requirements delegated to the state arise due to COVID-19 impacts, the Baytown Refinery will request enforcement discretion, as appropriate, from the Texas Commission on Environmental Quality (TCEQ).

The CD specifies that a Force Majeure request must comply with the requirements of Article XIV of the CD and must describe the anticipated length of time the delay or impediment may persist, the cause or causes of the delay or impediment, and the measures taken or to be taken by ExxonMobil to prevent or minimize the delay or impediment and the schedule by which those measures shall be implemented. These elements are described below, organized by the respective potentially impacted CD paragraph, along with a discussion of each element. Generally, the cause of the potential delay or impediment to performance is the reduction of staffing and available personnel due to COVID-19. Currently the Baytown Refinery is operational, but COVID-19 has led to changes to normal practices, including implementing measures to reduce worker interactions and additional vulnerabilities as a result of COVID-19.

COVID-19 and Its Impact

Explanation and Description of the Potential Delay or Impediment to Performance

COVID-19 affects the lungs and airways, with illnesses ranging from mild symptoms to severe illness and death.¹ The virus is highly communicable, remaining viable for hours to days on surfaces made

¹ "Symptoms", Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (accessed March 16, 2020).

from a variety of materials.² The Centers for Disease Control and Prevention ("CDC") itself has stated that "[m]uch is unknown about how the virus that causes COVID-19 spreads."³ "Close contact" (within about 6 feet) is the most frequent spread from person-to-person.⁴ There is no known treatment or vaccine for COVID-19.⁵ The CDC states that "[t]he complete clinical picture with regard to COVID-19 is not fully known."⁶ The agency stated that "[t]his is the first pandemic known to be caused by the emergence of a new coronavirus," and admitted that "this is a rapidly evolving situation."⁷

As the COVID-19 pandemic has developed and become more dire across the country, government entities and Non-Governmental Organizations ("NGOs") have reacted with progressively more stringent recommendations and restrictions. On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization ("WHO") labeled the outbreak a "public health emergency of international concern."⁸ On January 31, the U.S. Health and Human Services Department declared a public health emergency for international aid.⁹ On March 11, the WHO publicly declared COVID-19 as a pandemic. That same day, the Houston Mayor and County Judge of Harris County signed a proclamation declaring a Local State of Disaster Due to a Public Health Emergency in Houston and Harris County, respectively.¹⁰ On March 13, the President of the United States declared the outbreak a national emergency.¹¹ That same day, the Governor of the State of Texas issued a proclamation that COVID-19 poses an imminent threat of disaster, declaring

² "Environmental Cleaning and Disinfection Recommendations", Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html> (accessed March 16, 2020).

³ "Interim Guidance for Business and Employers", Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> (accessed March 16, 2020).

⁴ "Environmental Cleaning and Disinfection Recommendations", Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html> (accessed March 16, 2020).

⁵ "Situation Summary", Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fsummary.html (accessed March 16, 2020).

⁶ "Situation Summary", Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fsummary.html (accessed March 16, 2020).

⁷ "Situation Summary", Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fsummary.html (accessed March 16, 2020).

⁸ "Situation Summary", Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fsummary.html (accessed March 16, 2020).

⁹ "Situation Summary", Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fsummary.html (accessed March 16, 2020).

¹⁰ "Mayor Sylvester Turner and Harris County Judge Lina Hidalgo Declare Public Health Emergency Due to COVID-19", Mayor's Office Press Release, <http://houstontx.gov/mayor/press/2020/public-health-emergency-declared-covid-19.html> (accessed March 23, 2020)

¹¹ "Situation Summary", Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fsummary.html (accessed March 16, 2020).

a state of disaster for all counties in Texas.¹² On March 24, the County Judge of Harris County issued a Stay Home, Work Safe Order effective as of 11:59 p.m. on March 24.¹³ Finally, on March 31, the Governor of the State of Texas issued Executive Order GA 14, directing a state-wide order effective at 12:01 a.m. on April 2 through April 30, 2020 to “minimize social gatherings and minimize in-person contact with” non-household members except where necessary to provide or obtain essential services.¹⁴

As the Occupational Safety and Health Administration (“OSHA”) acknowledges, COVID-19 renders wide impacts on absenteeism based on illness, caregiving for sick or the at-risk, and caregiving for school closures.¹⁵ Interrupted supply lines may also cause severe impacts.¹⁶ OSHA specifically recommended flexible telecommuting where possible.¹⁷ OSHA also encouraged minimizing contact among workers, and establishing a reduction in the total number of employees in a facility at a given time, “allowing them to maintain distance from one another...”¹⁸ Eventually, the CDC recommended that in-person community events of fifty (50) people or more be postponed or cancelled, with a subsequent recommendation by the White House that in-person events of ten (10) people or more be cancelled or postponed between March 16–30¹⁹, currently extended through April 30.

The CDC states that “[a]ll employers need to consider how best to decrease the spread of acute respiratory illness and lower the impact of COVID-19 in their workplace...”²⁰ The Baytown Refinery has taken and continues to take cautious and reasonable steps to prepare for any COVID-19 impact. The Baytown Refinery followed the cleaning and disinfection recommendations of the CDC for weeks prior to any confirmed case in Baytown or Harris County.²¹ The Baytown Refinery also followed established recommendations to avoid the spread of the illness.²²

¹² “Governor Abbott Declares State of Disaster in Texas Due to COVID-19”, Office of the Texas Governor, <https://gov.texas.gov/news/post/governor-abbott-declares-state-of-disaster-in-texas-due-to-covid-19> (accessed March 16, 2020).

¹³ “Stay Home, Work Safe”, Order of County Judge Lina Hidalgo, <https://www.houston.org/news/harris-county-issues-mandatory-stay-home-work-safe-order> (accessed March 26, 2020).

¹⁴ “Executive Order GA 14”, https://gov.texas.gov/uploads/files/press/EO-GA_14_Statewide_Essential_Service_and_Activity_COVID-19_IMAGE_03-31-2020.pdf (accessed April 2, 2020).

¹⁵ “Guidance on Preparing Workplaces for COVID-19”, Occupational Safety Health Administration, <https://www.osha.gov/Publications/OSHA3990.pdf> (March 16, 2020).

¹⁶ “Guidance on Preparing Workplaces for COVID-19”, Occupational Safety Health Administration, <https://www.osha.gov/Publications/OSHA3990.pdf> (March 16, 2020).

¹⁷ “Guidance on Preparing Workplaces for COVID-19”, Occupational Safety Health Administration, <https://www.osha.gov/Publications/OSHA3990.pdf> (March 16, 2020).

¹⁸ “Guidance on Preparing Workplaces for COVID-19”, Occupational Safety Health Administration, <https://www.osha.gov/Publications/OSHA3990.pdf> (March 16, 2020).

¹⁹ “Get Your Mass Gatherings or Large Community Events Ready”, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html> (accessed March 16, 2020).

²⁰ “Interim Guidance for Business and Employers”, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> (accessed March 16, 2020).

²¹ “Environmental Cleaning and Disinfection Recommendations”, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html> (accessed March 16, 2020).

²² “Interim Guidance for Business and Employers”, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> (accessed March 16, 2020).

The Baytown Refinery has carefully established essential personnel plans. On March 13, the Baytown Refinery transitioned to the “Hot Standby Phase” of its plan, taking steps to facilitate further social distancing and leveraging alternative work locations by shifting operations to “essential personnel” only.

However, as the CDC acknowledges, those plans must be “flexible” given the uncertainties related to the disease and possible community impacts.²³ When planning, the CDC recommended considering factors including:

- The overall number of attendees (*Baytown Refinery employs a workforce of approximately 1,500 employees and also utilizes independent contractors*);
- The number of people attending who are at greater risk of more serious illness after contracting COVID-19 (*Baytown Refinery employs vulnerable employees*);
- The density of attendees within a confined area (*Baytown Refinery normal operations require work within confined areas*);
- The potential economic impact to participants, attendees, staff, and the larger community;
- The level of transmission in your local community, and the level of transmission in the areas from which your attendees will travel (*ExxonMobil is a global company*); and
- If there are ways in which to significantly reduce the number of attendees.²⁴

The Baytown Refinery has carefully considered ways in which to significantly reduce the number of on-site personnel while still meeting regulatory obligations. The actions taken by the Baytown Refinery to date have been reasonable and prudent while balancing regulatory obligations and maintaining the health and safety of its workers and the public.

Measures taken at the Baytown Refinery include reducing the number of non-essential employees working on-site to limit exposure of essential personnel to outside persons, proactively reinforcing social distancing and implementing the use of virtual meetings. Personnel were also asked to self-monitor for symptoms; and to self-quarantine if the employee or contractor experienced symptoms of COVID-19, has come in contact with a person with COVID-19, or recently travelled to an area with sustained COVID-19 transmission. In addition, ExxonMobil offered assistance to qualifying employees with childcare needs during school closures to enable on-site presence of essential personnel to maintain safe operations at the Baytown Refinery.

Unfortunately, future developments may impair the ability to fulfill all requirements. Due to what federal and state agencies acknowledge to be a rapidly evolving and unknown progression of the disease in the public, the Baytown Refinery respectfully provides notice that the enclosed may be potential impacts arising from the disease beyond the control of ExxonMobil, despite the exercise of due diligence and all reasonable steps to avoid or minimize delays or impediments to performance.

²³ “Interim Guidance for Business and Employers”, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> (accessed March 16, 2020).

²⁴ Get Your Mass Gatherings or Large Community Events Ready,” Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html> (accessed March 16, 2020).

Schedule for Mitigating Potential Delays or Impediments to Performance

ExxonMobil anticipates that the Baytown Refinery will be able to resume normal staffing at the site and return to normal work arrangements/operations **beginning no later than June 30, 2020**. However, due to the uncertainty associated with the rapidly evolving developments of COVID-19, the actual length of time where potential delays or impediments are experienced may be different than originally anticipated. While following recommendations from the CDC and OSHA, and monitoring the community and greater effects of COVID-19, ExxonMobil will make all diligent efforts to protect the health of its employees to maintain safe operation, and to return to normal operations as soon as practical. Updates to the exact timing of resuming normal work arrangements/operations will be included in a follow-up to this letter.

Potential Impacted Issues

As a result of the above-described situation, ExxonMobil believes the expected potential impact of COVID-19 on the Baytown Refinery qualifies as a Force Majeure event as described in Paragraph 218 of the CD. In addition, to the extent that the effects of this pandemic impact the ability of the Baytown Refinery to comply with federal air, water and/or waste regulations, ExxonMobil requests enforcement discretion during this event for the following enumerated areas for the period from **April 8, 2020 through June 30, 2020**. This time period represents the commencement of potential impacts from COVID-19 to our current best estimate of a return to normal work arrangements/operations.

The following list identifies an initial set of potential compliance issues at the Baytown Refinery that may occur in the initial phases of COVID-19 response. ***It is important to note that these are primarily administrative delays or adjustments to activities which are expected to have minimal to no emissions or environmental impact.*** ExxonMobil's requests and contingency responses are consistent with the March 26, 2020 guidance memo provided by the EPA ("COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program"), and are reasonable and environmentally protective in light of the pandemic impacts acknowledged by EPA's guidance memo.²⁵ Site emission control and treatment devices and systems remain operational at this time consistent with CD and other federal regulatory obligations:

1. Leak Detection and Repair (CD Paragraphs 123 – 130; and other federal regulations with standards for equipment leaks and requiring fugitive emissions monitoring)

The Baytown Refinery is currently required and able to complete fugitive emissions monitoring, including periodic rounds for audio, visual and olfactory ("AVO") testing, and repair on some components for which monitoring is required. The Baytown Refinery will continue to be operated in such a manner that all required monitoring and repairs are completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed monitoring and/or repairs, including repair of components on Delay of Repair. These Delay of

²⁵ "COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program", Environmental Protection Agency, <https://www.epa.gov/coronavirus> (accessed March 26, 2020).

Repair components will be repaired or replaced during the next planned shutdown of the respective units.

If necessary as a result of personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness), alternative monitoring approaches will be evaluated with applicable federal agencies. Alternatives may include Optical Gas Imaging ("OGI") camera monitoring, smaller monitoring crews, etc.; however, these approaches are yet to be determined.

2. NESHAP for Benzene Waste Operations (CD Paragraphs 98, 102, 108, 110, 111 and 112; and 40 CFR 61 Subpart FF)

The Baytown Refinery is currently required and able to complete inspection, monitoring, and repair of applicable equipment per the requirements in 40 CFR Part 61, Subpart FF, including monitoring and replacement of carbon canisters. The Baytown Refinery will continue to be operated in such a manner that all required inspections, monitoring and repairs are completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed inspections, monitoring and/or repairs.

The Baytown Refinery will pay particular attention to carbon absorption and treatment devices to ensure proper operations to meet emission and concentration limitations to the maximum extent practical. In most instances, missed or delayed inspections and/or monitoring would not indicate loss of control/treatment capability, but rather foregoing a routine verification step. Operational parameters and conditions provide adequate ability to achieve compliance with applicable standards in the absence of periodic inspections and/or monitoring.

3. Continuous Emissions Monitoring Systems ("CEMS") or Continuous Parameter Monitoring Systems ("CPMS") (CD Paragraphs 21, 32, 42, 54, 64.b, and 73); 40 CFR Part 60 Appendices; and other federal regulations requiring continuous monitoring)

The Baytown Refinery is currently required and able to operate and maintain numerous CEMS and CPMS to demonstrate compliance with various federal requirements. Maintenance of the CEMS includes, but is not limited to, periodic validations, quarterly cylinder gas audits ("CGAs"), annual relative accuracy test audits ("RATAs"), periodic stack tests of associated equipment and/or maintaining CEMS uptime greater than 95% of total operating time. The Baytown Refinery will continue to be operated in such a manner so as to achieve proper operation and maintenance of each instrumentation system, including the completion of timely repairs to maintain minimal downtime on each system, to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed maintenance and/or repairs on these instrumentation systems. These disruptions may increase downtime on regulatory-required instrumentation systems, which may potentially lead to exceeding 5% of operating time, despite taking all reasonable steps to minimize downtime.

Additionally, if third party vendors are impacted by the pandemic (either due to precautionary conditions or actual illness) and are unable to perform specific maintenance requirements, then the Baytown Refinery will evaluate if operating parameters associated with the applicable equipment and/or instrumentation system indicate a degradation in performance. This would entail all reasonable steps to allow the site to continue to operate with a good faith belief that emission standards are being met. If the evaluation indicates emission standards continue to be met, then the site will continue to operate the applicable equipment.

4. Compliance with Title V Permit Conditions and Other Federal Regulatory Requirements

- NSPS for Petroleum Refineries – Flare Monitoring (40 CFR 60 Subpart Ja)

The Baytown Refinery is currently required and able to collect and analyze weekly manual samples that are collected to measure the total sulfur-to-H₂S ratio of the gas discharged to the flare and evaluate adherence with the previously established 95-percent confidence interval. The Baytown Refinery will continue to be operated in such a manner that all required samples are collected and analyzed in a timely manner to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed sampling and/or analysis.

Additionally, if third party shipping vendors and/or laboratories are impacted by the pandemic (either due to precautionary conditions or actual illness) and are unable to transport collected samples or provide timely analysis of collected samples, respectively, delays or potentially missed holding times may be experienced that could impact weekly sample analysis.

The Baytown Refinery will pay particular attention to H₂S analyzers, total sulfur analyzers and other applicable process parameters to verify that the previously established total sulfur-to-H₂S ratio is a valid parameter to estimate sulfur content and emissions for flaring events. Absent manual samples, sample data, analyzer data and/or process parameters would be used to make an appropriate engineering evaluation.

- Storage Vessels (40 CFR 60 Subparts K, Ka, and Kb; 40 CFR Parts 61 and 63)

The Baytown Refinery is currently required and able to complete periodic inspections of storage vessels, with the potential for required repairs. The Baytown Refinery will continue to be operated in such a manner that all required inspections and repairs are completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed inspections and/or repairs.

- Wastewater Systems (40 CFR 60 Subpart QQQ); and other federal regulations requiring periodic monitoring of wastewater systems

The Baytown Refinery is currently required and able to complete periodic inspections of applicable equipment per the requirements in 40 CFR Part 60, Subpart QQQ. In addition, the Baytown Refinery is currently required and able to complete inspection, monitoring, and repair of applicable wastewater equipment per the requirements in other federal regulations (e.g., 40 CFR 63 Subpart G). The Baytown Refinery will continue to be operated in such a

manner that all required inspections and repairs are completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed inspections and/or repairs.

- NESHAP from Petroleum Refineries – Fenceline Monitoring (40 CFR 63 Subpart CC)
The Baytown Complex (including the Baytown Refinery) is currently required and able to maintain and to collect samples from 50 passive benzene monitors located around the fenceline of the Baytown Complex. The Baytown Refinery will continue to be operated in such a manner that sample stations are maintained, samples are collected and analyzed in a timely manner and quarterly reports are prepared and posted timely to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed sample collection, analysis and/or associated reporting.

Additionally, if third party shipping vendors and/or laboratories are impacted by the pandemic (either due to precautionary conditions or actual illness) and are unable to transport collected samples or provide timely analysis of collected samples, respectively, delays or potentially missed holding times may be experienced that could impact bi-weekly sample analysis.

- NESHAP from Petroleum Refineries – Heat Exchange Systems (40 CFR 63 Subpart CC); and other federal regulations requiring Heat Exchange System monitoring
The Baytown Refinery is currently required and able to complete periodic monitoring of heat exchange systems that have one or more heat exchangers in organic hazardous air pollutant ("HAP") service, with the potential for required repairs. The Baytown Refinery will continue to be operated in such a manner that all required monitoring and repairs are completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed monitoring and/or repairs.
- NESHAP for Boilers and Process Heaters (40 CFR 63 Subpart DDDDD)
The Baytown Refinery is currently required and able to complete periodic boiler and process heater tune-ups. The Baytown Refinery will continue to be operated in such a manner that all required tune-ups are completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed tune-ups.
- Federal Regulatory Reporting
The Baytown Refinery is currently required and able to submit numerous periodic reports as required by applicable federal regulations. The Baytown Refinery will continue to be operated in such a manner that all required reports are accurately completed and submitted timely to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in delayed report submittals as significant effort and coordination across the site is required to complete the reports accurately and in a timely manner.

- Federal Monitoring, Testing and Recordkeeping Requirements

The Baytown Refinery is currently required and able to complete periodic inspections, sampling, monitoring, testing, recordkeeping, etc. per the requirements in 40 CFR Parts 60, 61, 63 and 68. The Baytown Refinery will continue to be operated in such a manner that all required inspections, sampling, monitoring, testing, recordkeeping, etc. are completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed inspections, sampling, monitoring, testing, recordkeeping, etc.

- Water Regulations (Water Operating Permits)

The Baytown Refinery is currently required by the Texas Pollutant Discharge Elimination System (TPDES) permit and is able to conduct regular monitoring of treated effluent waste water and storm water discharge. The Baytown Refinery will continue to be operated in such a manner that all required sampling of waste water is completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in missed or delayed sampling and/or analysis.

Additionally, if third party laboratories are impacted by the pandemic (either due to precautionary conditions or actual illness) and are unable to provide timely analysis of collected samples, delays or potentially missed holding times may be experienced that could impact monthly Discharge Monitoring Report ("DMR") data.

- Hazardous Waste Management (40 CFR 260 – 280)

The Baytown Refinery is currently required and able to manage hazardous waste per the applicable Resource Conservation and Recovery Act ("RCRA") federal requirements that regulate how hazardous waste is managed on-site prior to being accepted at a transportation, disposal, and storage facility ("TSDF"). Hazardous waste is subject to specific treatment at the Baytown Refinery, including temporary storage in on-site containers, sampling, analysis of sample results and subsequent waste classification, scheduling disposal with a third party who meets all requirements, and transportation by qualified personnel. The Baytown Refinery will continue to be operated in such a manner to achieve adequate handling of hazardous waste, including taking all reasonable steps to expedite shipments of wastes to meet current 90-day on-site retention requirements. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may impact the availability of qualified personnel to complete each of these tasks in order to ship hazardous waste to a TSDF within 90 days.

Additionally, if third party shipping vendors are impacted by the pandemic (either due to precautionary conditions or actual illness) and are unable to provide the necessary drivers for transportation or if approved disposal facilities are closed, then the Baytown Refinery may be required to retain wastes on-site until the next available opportunity to ship the wastes.

- Chemical Accident Prevention Provisions (40 CFR Part 68)

The Baytown Refinery is currently required and able to comply with 40 CFR Part 68, commonly referred to as the Risk Management Program. The Baytown Refinery will continue

to be operated in such a manner that all applicable requirements are completed to the best of its ability. However, personnel restrictive measures and/or other impacts from the pandemic (either due to precautionary conditions or actual illness) may result in potential documentation issues and/or delays, as summarized in the table below:

Citation	Activity
40 CFR 68.73	<ul style="list-style-type: none"> - Documentation of training compliance may be impacted by the pandemic (either due to precautionary conditions or actual illness) due to inability to access database / intranet remotely - Inspection and testing frequency may be impacted by the pandemic (either due to precautionary conditions or actual illness), resulting in the need for potential extensions - Timeliness of deficiency mitigation may be impacted by the pandemic (either due to precautionary conditions or actual illness) <p>In the event that inspections and/or mitigation steps require extension, appropriate risk assessment protocols will be followed to document the deferral decision.</p>
40 CFR 68.67 (f)	<ul style="list-style-type: none"> - Unit Process Hazard Analyses ("PHAs") may be impacted by the pandemic (either due to precautionary conditions or actual illness), resulting in potential delays beyond the required 5 year update
40 CFR 68.71(b)	<ul style="list-style-type: none"> - 3-year refresher training may be impacted by the pandemic (either due to precautionary conditions or actual illness) due to inability to access database / intranet remotely. <p>In the event that 3-year refresher training goes overdue, refresher training would be completed as expeditiously as possible following the return to normal work arrangements/operations.</p>

Should any reporting be required associated with the above items in the event compliance is prevented by Force Majeure, it will be completed as required in the CD and/or in applicable federal regulations, including Title V.

As of the date of this letter, the Baytown Refinery has not noted any regulatory compliance issues with the standards enumerated in the CD or other applicable federal regulations and permits at the Baytown Refinery as a result of the impacts of COVID-19. It is possible that with the spreading and widening impacts of the COVID-19 pandemic that potential noncompliance may be identified, despite ExxonMobil taking all reasonable steps to maintain safe, reliable, and compliant operations. All reasonable efforts will be made by ExxonMobil to ensure compliance with the CD and other applicable federal regulations and permits, and ExxonMobil will take all reasonable steps to complete the requirements in an expeditious fashion should undesired delays or impediments occur due to the pandemic. Although ExxonMobil does not currently anticipate compliance impacts, ExxonMobil reserves the right to identify additional impacts to which Force Majeure may apply, and will provide updates to the EPA in a follow-up letter.

Within 30 days of the mailing of this letter, a follow-up letter will be submitted to provide an update on any impacts from the pandemic experienced by the Baytown Refinery. Additional updates will be

April 8, 2020

Notification of Potential Force Majeure Event and Request for Potential Enforcement Discretion
as a Result of COVID-19 for the ExxonMobil Baytown Refinery

provided throughout the duration of the pandemic period, as needed. Should you have any questions or concerns regarding this submittal, please contact Meagan Bowman at (346) 259-2345 or meagan.d.bowman@exxonmobil.com.

Sincerely,



Jeffrey K. Kovacs, P.E.
Baytown Complex SSHE Manager

cc:

Director, Air Enforcement Division
Office of Regulatory Enforcement
c/o Matrix New World Engineering, Inc.
120 Eagle Rock Ave., Suite 207
East Hanover, NJ 07936
CERTIFIED MAIL NO. 7019 1120 0001 9502 3904
RETURN RECEIPT REQUESTED

Mr. Andrew Wheeler
Environmental Protection Agency Administrator
EPA Administrator Mail Code 1101A
1200 Pennsylvania Ave, N. W.
Washington, DC 20460
CERTIFIED MAIL NO. 7019 1120 0001 9502 3911
RETURN RECEIPT REQUESTED

Mr. Lawrence Starfield
Environmental Protection Agency Acting Assistant Administrator
Air Enforcement Division Director Mail Code 2201A
1200 Pennsylvania Ave, N. W.
Washington, DC 20460
CERTIFIED MAIL NO. 7019 1120 0001 9502 3928
RETURN RECEIPT REQUESTED

Mr. Michael Shapiro
Environmental Protection Agency Acting Assistant Administrator
EPA Office of Water Mail Code 1101A
1200 Pennsylvania Ave, N. W.
Washington, DC 20460
CERTIFIED MAIL NO. 7019 1120 0001 9502 3935
RETURN RECEIPT REQUESTED

April 8, 2020
Notification of Potential Force Majeure Event and Request for Potential Enforcement Discretion
as a Result of COVID-19 for the ExxonMobil Baytown Refinery

Mr. Ken McQueen
Environmental Protection Agency Region 6 Regional Administrator
1201 Elm Street, Suite 500
Dallas, TX 75270
CERTIFIED MAIL NO. 7019 1120 0001 9502 3942
RETURN RECEIPT REQUESTED

Mr. Toby Baker
Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087, MC-109
Austin, TX 78711-3087
CERTIFIED MAIL NO. 7019 1120 0001 9502 3959
RETURN RECEIPT REQUESTED

Ms. Nicole Bealle
Regional Director
Texas Commission on Environmental Quality Region 12
5425 Polk Street, Suite H
Houston, TX 77023-1452
CERTIFIED MAIL NO. 7019 1120 0001 9502 3966
RETURN RECEIPT REQUESTED

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